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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicants: HALAMODA et al. Confirmation: 6117
Serial No.: 10/753,874 Group Art Unit: 3724
Filed: January 9, 2004 Examiner: P. Nguyen
For: DEVICE FOR PUNCHING GREEN SHEETS

REPLY BRIEF ON APPEAL

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

September 8, 2009

Sir:

This is a reply to the Examiner's Answer issued July 8, 2009.

On page 3, paragraph 2 and at various other places in the Answer, the Examiner has stated that the Dietz patent teaches or discloses "...a die having a shaft 2, an operative portion having a first part 6 and a second cylindrical part 14..." That is it is the Examiner's position that Dietz discloses a die having three different diameter portions as required by the claims. However, it is submitted that it is clear from the translation of the entire Dietz document that the portion 2 is **not** part of the die 6 but rather the holder or mounting device for the die 6. In this regard, note the paragraph on page 14 of the translation of th Dietz document which after describing the die holder 2, specifically states "At the lower end of the die holder 2, the actual stamping tool 6 is mounted, which with its cylindrical shaft is guided with narrow fit in the opening of the hold down 5. Note that throughout the Dietz document, the die holder 2 and the stamping die 6 are always referred to as separate elements, and not integral parts of the sme die element

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as argued by the Examiner. See also, for example, claim 7 and the paragraph beginning at the bottom of page 19 of the Dietz translation which clearly indicate that the stamping die 6 and the die holder 2 are separate and individual parts.

In paragraphs beginning at the bottom of page 7 and continuing onto page 8 of the Answer, the Examiner has argued that "...Dietz is pertinent to the particular problem with which the applicant is concerned which is a three sectional punch (2, 6 and 14)." Initially, it is pointed out that the claimed three sectional punch was not the problem on which the present invention is based but the solution. In any case, it is clear as pointed out above that the Dietz referenced does not have a three sectional stamping die, but rather only a two sectional stamping die 6 mounted in a die holder 2. Consequently, by the Examiner's own statements it is submitted that the Dietz is not pertinent to the presently claimed invention.

In the first to third paragraphs on page 8 of the Answer, the Examiner has taken the position that in view of Takashima, it would be obvious to add a cutting edge to the section 14 of the stamping die 6 of Dietz to arrive at applicant's invention. It should be noted however, that according to the introduction or background portion of Dietz, it is undesirable to form the counter sunk hole or even a precision dowel hole by simply punching through the sheet metal since it produces a number of problems such as tearing and loss of parallelism on the surfaces. It is for that reason that Dietz teaches that only the first cut should be a punch operation with the removal of metal, and that this should be followed by a stamping operation wherein metal is simply displaced. Accordingly, it is submitted that to provide the stamping die 6 of Dietz with a cutting edge and attempt to punch out the desired opening in one step would be contrary to the

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teachings of Dietz and according to this document would result in unsatisfactory openings. In any case, even if the stamping die 6 of Dietz were provided with a cutting edge, it still would have only **two** cylindrical sections and not three as required by each of the independent claims.

It should further be pointed out that the Takashima patent is directed to a very special situation involving openings and metal thicknesses in the micron range, and it is submitted that such special teachings cannot simply be transferred to much larger and thicker workpieces.

IN the second and third paragraphs on page 9 of the Answer, the Examiner argues that the table of Dietz is substantially flat. Initially it is pointed out that the surface of the receiving device 7 of Dietz is definitely inclined in all directions from the central opening. Although this angle of inclination is small, it nevertheless is intentional. While such a small inclination might be considered, under certain circumstances, to be "substantially flat" if it were unintentional, it is submitted that where as here the inclination is intentional, it is not substantially flat within the meaning of the present invention.

In the paragraph beginning at the bottom of page 9 and continuing onto page 10 of the Answer, the Examiner alleges that Applicant did not completely describe the interview. While it is true that Dietz was originally set forth as a 102 (b) prior art reference, nothing was said at the interview with regard to breaking a workpiece or not cutting through a workpiece, although this subsequently turns out to be true when a complete translation of the Dietz document is available as is the case now. All that was argued at the interview was that the Dietz patent showed a stapling die that did not

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punch out any metal, which was all that was required to overcome the reference as a 102 reference. It was the Examiner who characterized the Dietz reference, correctly as it turns out, that "element 14 of Dietz is not capable of being used as a punch. (emphasis added)".

In the first complete paragraph on page 10 of the Answer, and in other places in the Answer, the Examiner has argued that everyone acts as his own lexicographer and thus even though Dietz refers to the element 2 as a die holder, he could have referred to element 2 as a shaft or whatever other term he desired. The Examiner then states that the important issue is that portions (2, 6 and 14) integrally form a three-sectional punch wherein portion 2 is guided by element 5. While it is true that one can be his own lexicographer and could identify the element 2 by other terms, e.g., chuck, mounting block, etc, one cannot change the facts. The complete Dietz document is clear in describing the die holder 2 and the stamping die 6 as being separate elements with the die 6 being mounted in the die holder 2.

For the above-stated reasons, it is submitted that all of the pending claims, i.e., claims 1-3, 5-7, 9-12 and 15-20, are allowable over the references and rejections of record and are in condition for allowance. Therefore, reversal of the Examiner's final rejection and allowance of these claims is respectfully requested.

Respectfully submitted,

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